

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MANUEL MENDEZ ESTRADA,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

No. C05-216Z

ORDER

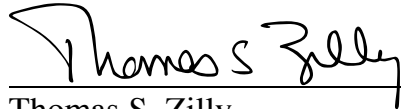
The Court, having considered Manuel Mendez Estrada's Petition to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255, docket no. 1, Magistrate Judge Donohue's Report and Recommendation relating thereto, docket no. 14, the Government's Statement Concerning the Report and Recommendation, docket no. 15, along with all of the pleadings filed in this matter, does hereby ORDER:

- (1) The Court ADOPTS the Report and Recommendation with the following modification. The Ninth Circuit has now decided that "Booker does not apply retroactively to convictions that became final prior to its publication." United States v. Cruz, \_\_ F.3d. \_\_, 2005 WL 2243113 (9th Cir. Sept. 16, 2005).
- (2) The Court DENIES Petitioner's § 2255 motion, docket no. 1.

1 (3) The Clerk is directed to send a copy of this Order to Petitioner, to counsel for  
2 respondent, and to Judge Donohue.

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4 IT IS SO ORDERED.

5 DATED this 12th day of October, 2005.

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8 Thomas S. Zilly  
9 United States District Judge  
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